IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL Nos: 2072, 2073 and 2121 of 2004

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WRIT APPEAL No.2072 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/12/2004 in WP NO : 7453 OF 2004 on the file of the High Court.)

Between:

P.S.Jakeer Hussain, S/o.P.S.Jabbar,
R/o.1-11-176, Abadpet, Hindupur,
Ananthapur District.

..... APPELLANT

AND

1 APSRTC, rep.by its Managing Director, Musheerabad, Hyderabad.
2 State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad

rep.by its Presiding officer.
3 Regional Transport Authority, Ananthapur, Ananthapur District. rep.by

its Secretary.

.....RESPONDENTS

Counsel for the Appellant: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent No.1: MR.K.SRINIVASA RAO

Counsel for the Respondent Nos.2 and 3: The Govt. Pleader for Transport

WRIT APPEAL NO : 2073 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/12/2004 in WP NO : 7535 OF 2004 on the file of the High Court.)

Between:

P.S.Jakeer Hussain, s/o P.S.Jabbar,
r/o 1-11-176, Abadpet, Hindupur, Ananthapur District.

..... APPELLANT

AND

1 APSRTC rep., by its Managing Director, Musheerabad, Hyderabad.
2 State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad rep.,

by its Presiding Officer.
3 Regional Transport Authority, Anantapur, Ananthapur District.

.....RESPONDENTS

Counsel for the Appellant:MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent No.1: Mr.K.Srinivasa Rao

Counsel for the Respondent Nos.2 and 3: The G.P. for Transport

WRIT APPEAL NO : 2121 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/12/2004 in WP NO : 3820 OF 2004 on the file of the High Court.)

Between:

P.S.Jakeer Hussain S/o.P.S.Jabbar
1-11-176, Abadpet, Hindupur,

Anantapur Dist.

..... APPELLANT

AND

1 V.K.Siraj, S/o.V.K.Azeez Sab,
16-12-1A, Tippukhan Street, Hindupur,
Ananthapur Dist.
2 State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad.
3 Regional Transport Authority, Ananthapur, Anantapur Dist.
4 The Regional Manager APSRTC Anantapur Dist.

.....RESPONDENTS

Counsel for the Appellant:MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent No.1: Mr.V.Narasimha Reddy

Counsel for the Respondent Nos.2 and 3: The G.P. for Transport

Counsel for the Respondent No.4: Mr.K.Srinivasa Rao

The Court at the admission stage made the following common:

ORDER: (per the Hon'ble the Chief Justice)

Challenge in these appeals is to the order passed by learned single Judge on 1st December, 2004 in W.P.No.3836 of 2004 and batch. Learned single Judge has allowed the writ petitions and set aside the order of the State Transport Appellate Tribunal passed in A.P.No.424 of 2003 dated 10-2-2004 granting one pucca stage permit on the town service route Hindupur Municipal bus Stand to Kothapalli via Mothukapalli, Seva Mandir, Kodigapalli, Parigi, Dharmapur, Seerepalli and Mudireddipalli in favour of the appellant herein. After setting aside the said order, learned single Judge remitted back the appeal to the appellate Tribunal for fresh consideration and disposal. Facts in brief, as have been stated, are that appellant applied for two pucca stage carriage permits on town service route Hindupur Municipal bus Stand to Kothapalli via Mothukapalli, Seva Mandir, Kodigapalli, Parigi, Dharmapur, Seerepalli and Mudireddipalli to perform 12 singles each per day with night halts at Hindupur Municipal Bus Stand and Kothapalli. The application was opposed and by proceedings of the Regional Transport Authority, Anantapur, dated 7th June, 2003, the application was rejected on the ground that the proposed town service route is a new route and Government alone has to formulate the route for applying stage carriage permits under the provisions of Section 68(3)(ca) of the Motor Vehicles Act, 1988 (for short "the Act") and permission of the Transport

Commissioner had not been obtained by the appellant under Rule 258 (2)(ii) of the A.P. Motor Vehicle Rules, 1989 (for short "the Rules") for the proposed route. After rejection of the application, the appellant preferred an appeal before the State Transport Appellate Tribunal, which, on 10th February, 2004 allowed the appeal. The appellate Tribunal took notice of the fact that one N.Yunus Khan had applied for opening a new service route - Hindupur Municipal bus stand to Kothapalli via Mothukapalli, Sevamandir, Kodigapalli, Parigi Dharmapur, Seerapalli and Mudireddipalli and by proceedings dated 24/25-3-1992, application was allowed and the proposal for grant of a town service route was approved subject to the condition of the Transport commissioner, Andhra Pradesh, Hyderabad granting permission as required under Rule 258(2)(ii) of the Rules. This order of the Regional Transport Authority, Anantapur was challenged by one V.K.Siraj in W.P.No.7714 of 1992 as illegal and without jurisdiction. Writ Petition was dismissed on 17th September, 1992 and this order has become final. Accordingly, the appellate Tribunal held that when Yunus Khan was granted permit on the same route, appellant could also be granted the permit. Appeal was allowed and the order passed by the Regional Transport Authority was set aside. This order was challenged in four writ petitions – two of which were filed by the A.P. State Road Transport Corporation and two by V.K.Siraj.

The main consideration on which the order of the appellate Tribunal was set aside and an order of remand was made by the learned single Judge was that except on facts, the appellate Tribunal did not consider the provisions of Section 68(3)(ca) of the Act and the requirements as contemplated therein. Merely because certain permits were applied for and granted on the route, the same would not make the route an existing route. Thus, according to the learned single Judge, the short question involved was not properly considered by the appellate Tribunal and thus he remitted the matter back. Challenge is to the said order.

We have heard the counsel for the parties.

The main submission on behalf of the learned counsel for the respondents is that it was a new route which had been applied for by the appellant and unless the appellant could satisfy that the Transport Commissioner had granted the requisite permission for the route in question, he was not entitled for the permit. The order which was passed in favour of N.Yunus Khan was subject to the Transport

Commissioner granting the requisite permission. But the appellant had not shown any order of the Transport Commissioner by which the route had been approved. Therefore, it would remain a new route and till this new route was approved by the Government, there could be no permission granted to the appellant.

We have duly considered the submissions made at the Bar and perused the order of learned single Judge, which deserves to be set aside. The facts are apparent on record and need no further proof. On 24/25th March, 1992, Regional Transport Authority, Anantapur, under item No.160 considered the proposal of N.Yunus Khan for opening of new town service route - Hindupur Municipal bus stand to Kothapalli via Mothukapalli, Sevamandir, Kodigapalli, Parigi Dharmapur, Seerepalli and Mudireddipalli. This proposal was approved subject to the Transport Commissioner, Andhra Pradesh, granting permission as required under Rule 258(2) (ii) of the Rules. When Writ Petition was filed by V.K.Siraj in W.P.No.7714 of 1992, learned counsel for the Secretary, Regional Transport Authority, Anantapur, made a statement that already permission was granted to run the bus on the town service route and on the same route N.Yunus Khan was running the bus service and he obtained permission from the Transport Commissioner. Once such a statement was made in the writ petition, the writ petition was dismissed holding that as permission is obtained from the Transport Commissioner for the route in question, no further permission would be necessary from the Transport commissioner in individual cases since permission had already been granted for the route in question. Not only that, the appellant had in fact on 29th May, 2002 approached the State Transport Authority, Andhra Pradesh for requisite permission under rule 258(2)(ii) of the Rules for operating on the town service route - Hindupur Municipal Bus Stand to Kothapalli via Mothukupally, Seva Mandir, Kodigipalli, Parigi, Dharmapura, Seerapalli, Mudireddipalli. With reference to the said application, by proceedings dated 30th May, 2002, the Transport Commissioner informed the appellant that since the said route is an existing route, the appellant has to approach the Regional Transport Officer, Anantapur for further relief. Accordingly, the appellant had moved the Regional Transport Authority, Anantapur, which, by its proceedings dated 7th June, 2003, rejected the application on the ground that the proposed town service route was a new route and not an old route and permission of the Transport Commissioner was required. Only Government can formulate the said route and reference was made by the Regional Transport Authority to the provisions of Section

68(3)(ca) of the Act. Sub-clause (ca) was inserted in sub-Section (3) of Section 68 only with effect from 14th November, 1994 by Act No.54 of 1994 and this cannot have any retrospective effect. Only Rule 258(2) (ii) of the Rules was applicable since N.Yunus Khan had applied for the route in question in 1990 and was granted the permit to operate on the said route in 1992. Sub-clause (ca) of sub-section (3) of Section 68 of the Act would not apply to such a route since it is an existing route as on the date when sub-clause (ca) was brought on the statute book. Therefore, the order of the Regional Transport Authority was bad in law and was rightly set aside by the State Transport Appellate Tribunal, which rightly came to the conclusion that since permit had already been granted to N.Yunus Khan on the route in question, the same could have been granted to the appellant before it, which aspects were totally ignored by the learned single Judge while allowing the writ petitions of the respondents and remitting the matter back to the State Transport Appellate Tribunal. There is no illegality or irregularity in the order passed by the State Transport Appellate Tribunal in granting permit to the appellant.

Appeals are accordingly allowed and the orders impugned in the appeals are set aside. Writ petitions filed by the respondents are dismissed.

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DEVINDER GUPTA, CJ

15-2-2005

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B.SESHASAYANA REDDY, J

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To

1. The Managing Director, APSRTC, Musheerabad, Hyderabad.
2. The Regional Manager, APSRTC, Ananthapur, Ananthapur District.
3. The Presiding Officer, State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad.
4. The Secretary, Regional Transport Authority, Ananthapur, Ananthapur District.
5. 2 CCs to the Govt. Pleader for Transport, High Court buildings, Hyderabad (OUT).
6. 2 CD copies.